

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RALPH RODRIGUEZ,

Plaintiff,

-against-

EDWARD BURNETT, et al.,

Defendants.

ORDER OF SERVICE

No. 22-CV-02198 (PMH)

PHILIP M. HALPERN, United States District Judge:

Ralph Rodriguez (“Plaintiff”), currently incarcerated at Fishkill Correctional Facility, brings this action *pro se* under 42 U.S.C. § 1983, Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. He asserts that during his confinement at Fishkill, Defendants violated his rights. By Order dated May 27, 2022, Judge Swain granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis* (“IFP”).¹ This case was re-assigned to me on June 6, 2022.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

... in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for the following defendants: the State of New York; Edward R. Burnett, Superintendent; Akinola Franci Akinyombo, Deputy Superintendent; Davachi M. Sullivan, Nurse Practitioner; Sally A. Reams, Supervisor of Inmate Grievance Program; John F. Woods, Deputy Superintendent of Program; Alexandra Ayana Gibbons, Correctional Officer; Luis Gonzalez, Assistant Deputy Superintendent; Stephen Urbanski, Deputy Superintendent of Security; Sharon L. Frost, Deputy Superintendent of Administration; and Charmaine Waylon, Nurse Administrator. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue summonses for Defendants State of New York, Burnett, Akinyombo, Sullivan, Reams, Woods, Gibbons, Gonzalez, Urbanski, Frost, and Waylon, complete the USM-285 forms with the addresses for these defendants, and deliver to the U.S. Marshals Service all documents necessary to effect service.

The Clerk of Court is also directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: White Plains, New York
June 7, 2022

A handwritten signature in black ink, appearing to read 'PHILIP M. HALPERN', written over a horizontal line.

PHILIP M. HALPERN
United States District Judge

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DEFENDANTS AND SERVICE ADDRESSES

1. State of New York
Attorney General of State of New York
28 Liberty Street
New York, NY 10005
2. Edward Burnett
Superintendent
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508-0307
3. Akinola Franci Akinyombo
Deputy Superintendent
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18 Strack Drive
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4. Davachi M. Sullivan
Nurse Practitioner
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5. Sally A. Reams
Supervisor of Inmate Grievance Program
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6. John F. Woods
Deputy Superintendent of Program
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7. Alexandra Ayana Gibbons
Correctional Officer
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8. Luis Gonzalez
Assistant Deputy Superintendent
Fishkill Correctional Facility

18 Strack Drive
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9. Stephen Urbanski
Deputy Superintendent of Security
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18 Strack Drive
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10. Sharon L. Frost
Deputy Superintendent of Administration
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11. Charmaine Waylon
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